

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISIONJerry Jerome Barrineau III,
Petitioner,

v.

United States of America,
Respondent.

C/A No. 6:05-646

ORDER
(Written Opinion)

Petitioner moves this Court to issue a certificate of appealability under 28 U.S.C. § 2253(c)(2). Petitioner is proceeding *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982). For the reasons stated below, the Court DENIES the request for a certificate of appealability.

Petitioner sought relief in this Court pursuant to 28 U.S.C. § 2255. On October 19, 2005, this Court granted Respondent's motion for summary judgment and dismissed the petition. Petitioner requested a certificate of appealability from this Court by application filed November 19, 2005.

A habeas corpus petitioner proceeding under 28 U.S.C. § 2255 may not appeal an order denying the petition without first obtaining a certificate of appealability

("COA"). 28 U.S.C. § 2253(c)(1)(B). A court can issue a COA only if the applicant has made a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The "substantial showing" required for a COA is a lesser showing than would be required for Petitioner to prevail on the merits of his/her petition. *See Barefoot v. Estelle*, 463 U.S. 880, 895 (1983).

In *Slack v. McDaniel*, 120 S.Ct. 1595 (2000), the United States Supreme Court articulated the standard for determining whether or not to issue a COA under the "substantial showing" language in section 2253(c). The Court stated:

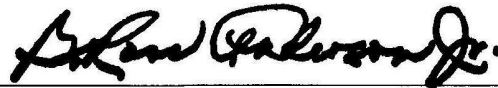
Where a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.

120 S. Ct. at 1604.

In his request for a COA, Petitioner makes no showing of the denial of a constitutional right, merely referencing the "grounds" in his original petition. Therefore, a COA should not issue.

IT IS THEREFORE ORDERED that Petitioner's request for a certificate of appealability be DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

December 22, 2005.